

EMPLOYEE RELATIONS AND UNIONS

TRUSTEES AND STAFF RELATIONS

The board, director and staff share the same objective of providing the best library service possible so it is natural that they may wish to share ideas about service, help identify problems, and work together to solve problems. However, board members can easily find themselves in the position of interfering with personnel or intervening in the operations of the library if they become personally involved and bypass the protocols that sustain the distinct roles and responsibilities of management and staff.

This is not to say that trustee and staff should not know each other. Indeed trustees should make an effort to know the library personnel and to encourage opportunities for contact. Some appropriate options include asking the director to have staff:

- Make occasional reports to the board concerning special projects.
- Introduce a new service or explain how an existing library service works.
- Tour board members through branches or library departments to describe operations.
- Participate in long-range planning committees and task forces.

The board can also plan social opportunities to celebrate staff successes, to introduce new board members and new staff, or other occasions.

The code of ethics adopted by the board should address the interaction protocols. In addition, there are a number of ways that management and staff can reduce possibilities for inappropriate communications. They include developing:

- **Clear understanding of Trustee Role**

Orientation for new trustees should emphasize that the director is entirely responsible for library operations including staff hiring and supervision, interpreting policies to staff, and accomplishing the library plan. Trustees need to recognize that the public may put pressure on them to hire a certain individual but it is not appropriate for them to exert pressure on the director to influence decisions.

If a staff member approaches a board member with ideas and suggestions for library service, the trustee should encourage the staff member to follow policy and present their ideas through the appropriate library channels.

Trustees should never give directions or instructions directly to staff even if they are personal friends or have developed a friendship through library activities.

If the board receives complaints from the public about staff performance it refers the information to the director. If the board receives complaints from a staff member, it will refer the complainant to the director. The arbiter function of the board is then maintained, not affecting their role as the body that may conduct a personnel hearing.

The board can improve understanding of roles by assuring that the board members, director and staff have current and clearly written job descriptions, that policies are reviewed and revised, and that personnel procedures and protocols are in place.

Boards must not abandon or undermine staff if there is community controversy, especially when staff are following board policies.

- **Clear Understanding of Director and Staff Roles**

Orientation for staff should emphasize that the board is responsible for policy and the library director for library operations. Communication protocols should be discussed during the orientation as well as described in the staff manual.

Staff ideas or concerns about policy should be discussed with the library director who may decide to present the information to the board during its' regular meeting. Staff ideas for library programs and services should be presented through appropriate library channels.

Circulating board agendas and minutes may contribute to staff understanding of the role of the board of trustees and the issues that they address.

Orientation for staff should also emphasize that complaints about library operations or about personnel are the responsibility of the library director. Any complaints to the board will be referred to the director for consideration.

RIGHTS OF EMPLOYEES TO ORGANIZE AND BARGAIN COLLECTIVELY

It shall be lawful for working men and women to organize themselves into, or carry on labor unions for the purpose of lessening the hours of labor or increasing the wages or bettering the conditions of the members of such organizations; or carry out their legitimate purposes by any lawful means.

RCW 49.36.010

The intent and purpose of this chapter is to promote the continued improvement of the relationship between public employers and their employees by providing a uniform basis for implementing the right of public employees to join labor organizations of their own choosing and to be represented by such organizations in matters concerning their employment relations with public employers. RCW 41.56.010

This chapter shall apply to any county or municipal corporation, or any political subdivision of the state of Washington. RCW 41.56.020

Nothing contained in this chapter shall permit or grant any public employee the right to strike or refuse to perform his official duties. RCW 41.56.120

A literature review illustrates that employees are often seeking more than increased wages and/or benefits when they seek to establish unions. They often are also addressing fundamental human issues. They may wish to pursue ways to establish positive avenues of communication and involvement. They may be asking to be treated respectfully. They may desire recognition for their contributions and acknowledgement that they are valued by library administration. They want their ideas and suggestions to receive a fair hearing.

All boards and library directors should evaluate how well they communicate with and support their staff, regardless of the presence or absence of a union.

Washington State Public Employment Relations Commission (PERC)

Both federal and state laws govern labor relations. These laws grant management and employees certain rights and obligations that each must observe. The Washington State Public Employment Relations Commission (PERC) implements state collective bargaining statutes established in the *Revised Code of Washington (RCW)* and administrative practices established the *Washington Administrative Code (WAC)*. The Commission oversees elections, approves bargaining units, and provides final arbitration of grievances or adjudication of claims of unfair labor practices. The following section is adapted from PERC information.

General Personnel Requirements

As stated in *RCW 27.12.210*, it is the responsibility of the board of trustees to employ a librarian, and upon the librarian's recommendation employ such other assistants as may be necessary, prescribe their duties, fix their compensation, and remove them for cause.

In order to meet these duties a board should:

- **Adopt a personnel policy for non-union employees** that includes, but is not limited to, hiring and conditions of employment to be administered by the library director.
- If the library has employees represented by a labor union, the **board approves the collective bargaining agreement**. This agreement should include a section on hiring and conditions of employment to be administered by the library director.
- **The board should adopt an Employee Classification Plan**, that outlines the responsibilities and duties of all employees. They should also annually review employee compensation as part of the annual budget approval process.

It is the responsibility of the board to monitor and review all union and other personnel actions filed against the library in which there are allegations of violation of the collective bargaining agreement, policy, or civil rights.

What are the Rights of Employees?

Employees may organize, or attempt to organize, and designate representatives of their own choosing for the purpose of collective bargaining. During this process they may not be directly or indirectly interfered with, restrained, coerced, or discriminated against.

They may join a union whether the union is or is not recognized by the library.

How is a Union Established?

The union must have a showing of interest by 30 percent of the employees. Employees establish interest by signing and dating authorization cards or letters in the 90-day period preceding the filing of petition requesting unionization. The union can then file a petition with PERC for a secret ballot election. The election determines whether the employees wish to be represented by a union in dealing with the library, and if so, which union.

What are Unfair Labor Practices for the Employer?

Employers may not interfere with, restrain, or coerce employees in the exercise of rights guaranteed by law.

They may not dominate or interfere with the formation or administration of any employee organization or contribute financial or other support to it. Subject to rules adopted by the Public Relations Employment Commission, an employer may permit employees to confer with the union or its representatives or agents during working hours without loss of time or pay.

Employers may not encourage nor discourage union membership by discriminating in regard to hire, tenure of employment, or any term or condition of employment.

An employee who has filed charges or given testimony may not be discharged, nor discriminated against.

Employers cannot refuse to bargain collectively.

Communications with Staff

Libraries must provide accurate information and respond to employee questions about forming a union.

Libraries may communicate information to employees about the library bargaining position and offers made to the bargaining unit during negotiations. The library can explain why a position is fair and what the results might be for the employees. However, the library must be very careful that the communications cannot be misconstrued as an attempt to coerce employees.

The library should encourage staff to participate on the union team. The more people who are involved the less chance there is for misunderstandings or miscommunications.

What are Unfair Labor Practices for the Union?

The union may not interfere with, restrain, or coerce public employees in the exercise of their rights guaranteed by Washington laws.

The union may not induce the public employer to commit an unfair labor practice.

A public employee who has filed an unfair labor practice charge may not be discriminated against.

The union cannot refuse to engage in collective bargaining.

What Happens During Negotiations?

When employees elect an exclusive representative (union), their union and management negotiate a set of legally binding rules embodied in a collective bargaining agreement (CBA) that management and labor must abide by.

Management and the union will meet at reasonable times, to confer and negotiate in good faith, and to execute a written agreement with respect to:

- Grievance procedures.
- Collective negotiations on personnel matters, including wages.
- Hours and working conditions.

Neither party can be compelled to agree to a proposal nor be required to make a concession unless otherwise provided by law.

How does the Open Public Meetings Act Apply to Negotiation Discussions?

When a discussion involves salaries, wages, or conditions of employment to be "generally applied" in the agency, it must take place in open session.

However, the board may meet in closed session if discussion involves:

- Collective bargaining sessions with employee organizations including contract negotiations, grievance meetings, and discussions relating to the interpretation or application of a labor agreement; or
- Planning for adopting the strategy or position to be taken during the course of any collective bargaining, professional negotiations, or grievance or mediation proceedings, or reviewing the proposals made in the negotiations or proceedings while in progress. (RCW 42.30.140)

What Happens if an Unfair Labor Practice Charge is Filed?

The complainant files an Unfair Labor Practices Complaint Form with the Washington Public Employment Relations Commission (PERC), with copies to all counsel and representatives. Charges may be filed by the employer or by the union. The facts are initially assumed to be true but will be discharged if no unfair labor practice is found based on the facts. The complainant bears the burden of proof.

A complaint may be referred to arbitration if the parties agree in advance that the result will be binding, or the complaint may be assigned to an examiner to inquire into the facts and address them in a public hearing. If violation is found, a remedial order will be issued.

Who Should Represent the Library in Negotiations?

Neither members of the board nor the library director should serve as a negotiator because it may place them in a position of conflict of interest, particularly if working conditions are being negotiated. Instead, the library should select a skilled negotiator with knowledge of labor laws and practices, and who has demonstrated a cooperative approach that will result in win-win agreements.

The negotiator is given authority to make decisions on behalf of the library within the parameters established by the board in consultation with the library director. The board, in concert with the library director, must decide the most important issues that will be addressed. Keep the focus on major issues and avoid proposing details in order to avoid long, drawn out, and possibly contentious negotiations over minutiae.

It is critically important to keep communications with all parties positive, supportive, polite, and cooperative. Board members need to listen carefully to all parties in order to make appropriate decisions.

Board members should avoid discussing or commenting on negotiation issues no matter how tempting it may be to respond to editorials or articles. If the press asks questions, appropriate responses might be "The negotiations are proceeding well and we will contact you as soon as there is something to report." or "We are in the middle of negotiations, so it is inappropriate to comment at this time."

Some Actions that Can Severely Hamper Successful Negotiations

Boards members should not:

- Make interpretations or take actions that could set a new precedent or become a "past practice" over time.
- Talk with individual staff or union members about issues of potential concern in developing the contract.
- Make decisions with staff or make promises to staff and others on union issues.
- Consider staff complaints or criticism about management instead of referring the issues first to management.
- Regularly invite opinions and comments from union or staff representatives on board agenda items, as opposed to occasional invitations.
- Comment as individuals instead of representing or explaining positions and decisions adopted by the board.
- Respond to media questions by discussing or commenting on the negotiations or issues.

Some Words of Wisdom

In the long run, the library will benefit if the relationship with a collective bargaining unit is a cordial one. Adversarial, contentious negotiations can set the tone for the library and relationships with its' employees for many years to come.

RESOURCES

The Washington Public Employment Relations Commission is accessible through the state government Website <http://www.access.wa.gov>. The Commission site includes the laws, rules and interpretations as well as primary forms. The Commission is located at 711 Capitol Way, Suite 603, P.O. Box 40919, Olympia, WA 98504-0919.

"The Trustee and Labor-Management Relations" by Donald J. Sager in *The Library Trustee: A Practical Guidebook*. American Library Association, 1995.